

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the First
Amended Accusation Against:**

Oghenesume David Umugbe, M.D.)

Case No. 800-2015-012747

**Physician's and Surgeon's
Certificate No. A 94047**

Respondent

DECISION

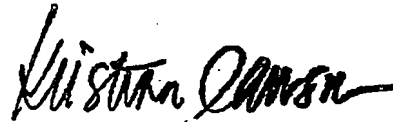
**The attached Stipulated Settlement and Disciplinary Order is hereby
adopted as the Decision and Order of the Medical Board of California,
Department of Consumer Affairs, State of California.**

This Decision shall become effective at 5:00 p.m. on August 28, 2019

IT IS SO ORDERED July 29, 2019

MEDICAL BOARD OF CALIFORNIA

By:



**Kristina D. Lawson, J.D., Chair
Panel B**

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 TANN. TRAN
Deputy Attorney General
4 State Bar No. 197775
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6535
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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the First Amended Accusation
12 Against:

13 **OGHENESUME DAVID UMUGBE, M.D.**

14 **Physician's and Surgeon's Certificate**
15 **No. A 94047,**

16 **Respondent.**

Case No. 800-2015-012747

OAH No.: 2018120090

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
21 of California. She brought this action solely in her official capacity and is represented in this
22 matter by Xavier Becerra, Attorney General of the State of California, by Tan N. Tran, Deputy
23 Attorney General.

24 2. Respondent Oghenesume David Umugbe, M.D. (Respondent) is represented in this
25 proceeding by attorney Joel B. Douglas, whose address is: BONNE BRIDGES et. al., 355 South
26 Grand Avenue, Suite 1750, Los Angeles, CA 90071.

27 ///

3. On or about February 10, 2006, the Medical Board of California issued Physician's and Surgeon's Certificate No. A 94047 to Oghenesume David Umugbe, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 800-2015-012747 and will expire on January 31, 2020, unless renewed.

JURISDICTION

4. First Amended Accusation No. 800-2015-012747 was filed before the Medical Board of California (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 5, 2018. Respondent timely filed his Notice of Defense contesting the First Amended Accusation.

5. A copy of First Amended Accusation No. 800-2015-012747 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 800-2015-012747. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

///

1 CULPABILITY

2 9. Respondent does not contest that at an administrative hearing, complainant
3 could establish a prima facie case with respect to the charges and allegations contained in
4 First Amended Accusation No. 800-2015-012747, and that he has thereby subjected his
5 Physician's and Surgeon's Certificate No. A 94047 to disciplinary action.

6 10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
7 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
8 Disciplinary Order below.

9 RESERVATION

10 11. The admissions made by Respondent herein are only for the purposes of this
11 proceeding, or any other proceedings in which the Medical Board of California or other
12 professional licensing agency is involved, and shall not be admissible in any other criminal or
13 civil proceeding.

14 CONTINGENCY

15 12. This stipulation shall be subject to approval by the Medical Board of California.
16 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
17 Board of California may communicate directly with the Board regarding this stipulation and
18 settlement, without notice to or participation by Respondent or his counsel. By signing the
19 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
20 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
21 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
22 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
23 action between the parties, and the Board shall not be disqualified from further action by having
24 considered this matter.

25 13. The parties understand and agree that facsimile copies of this Stipulated Settlement
26 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
27 effect as the originals.

28 ///

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

A. PUBLIC REPRIMAND

IT IS HEREBY ORDERED that Respondent Oghenesume David Umugbe, M.D., Physician's and Surgeon's Certificate No. A 94047, shall be and is hereby Publicly Reprimanded, with terms and conditions below, pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This Public Reprimand, is issued in connection with Respondent's violations of the Medical Practice Act, as set forth in First Amended Accusation No. 800-2015-012747, is as follows:

In or about 2013 through 2015, Dr. Umuge failed to adequately monitor the controlled substances which were being prescribed to two patients.

B. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A prescribing practices course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its

1 designee not later than 15 calendar days after successfully completing the course, or not later than
2 15 calendar days after the effective date of the Decision, whichever is later.

3 Failure to attend and complete the prescribing practices course shall constitute general
4 unprofessional conduct and shall be grounds for further disciplinary action.

5 C. **MEDICAL RECORD KEEPING COURSE.** Within 60 calendar days of the
6 effective date of this Decision, Respondent shall enroll in a course in medical record keeping
7 approved in advance by the Board or its designee. Respondent shall provide the approved course
8 provider with any information and documents that the approved course provider may deem
9 pertinent. Respondent shall participate in and successfully complete the classroom component of
10 the course not later than six (6) months after Respondent's initial enrollment. Respondent shall
11 successfully complete any other component of the course within one (1) year of enrollment. The
12 medical record keeping course shall be at Respondent's expense and shall be in addition to the
13 Continuing Medical Education (CME) requirements for renewal of licensure.

14 A medical record keeping course taken after the acts that gave rise to the charges in the
15 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
16 or its designee, be accepted towards the fulfillment of this condition if the course would have
17 been approved by the Board or its designee had the course been taken after the effective date of
18 this Decision.

19 Respondent shall submit a certification of successful completion to the Board or its
20 designee not later than 15 calendar days after successfully completing the course, or not later than
21 15 calendar days after the effective date of the Decision, whichever is later.

22 Failure to attend and complete the medical record keeping course shall constitute general
23 unprofessional conduct and shall be grounds for further disciplinary action.

24 ///

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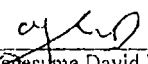
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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Joel B. Douglas. I understand the stipulation and the effect it will
4 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
5 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Medical Board of California.

7
8 DATED: July 8, 2019 
9 Oghenevwe David Umugbe, M.D.
Respondent

10 I have read and fully discussed with Respondent the terms and conditions and other matters
11 contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and
12 content.

13 DATED: July 8, 2019 
14 Joel B. Douglas
15 Attorney for Respondent

16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the Medical Board of California of the Department of Consumer
19 Affairs.

20
21 Dated:

22 7/8/19

Respectfully submitted,

23 XAVIER BECERRA
24 Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

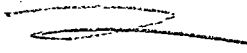
25 
26 TAN N. TRAN
27 Deputy Attorney General
28 Attorneys for Complainant

Exhibit A

First Amended Accusation No. 800-2015-012747

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 TAN N. TRAN
Deputy Attorney General
4 State Bar No. 197775
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO July 5th 2019
BY: [Signature] ANALYST

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation
12 Against:

13 **Oghenesume David Umugbe, M.D.**
14 **P.O. Box 1328**
Rancho Cucamonga, CA 91729-1328

15 **Physician's and Surgeon's Certificate**
16 **No. A 94047,**

17 Respondent.

Case No. 800-2015-012747

OAH No.: 2018120090

FIRST AMENDED ACCUSATION

18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this First Amended Accusation solely in
21 her official capacity as the Executive Director of the Medical Board of California, Department of
22 Consumer Affairs (Board).

23 2. On or about February 10, 2006, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 94047 to Oghenesume David Umugbe, M.D. (Respondent). The
25 Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the
26 charges brought herein and will expire on January 31, 2020, unless renewed.

27 ///

JURISDICTION

3. This First Amended Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2004 of the Code states:

"The board shall have the responsibility for the following:

"(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

"(b) The administration and hearing of disciplinary actions.

"(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

"(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

"(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

"(f) Approving undergraduate and graduate medical education programs.

"(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

"(h) Issuing licenses and certificates under the board's jurisdiction.

"(i) Administering the board's continuing medical education program."

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the board deems proper.

6. Section 2234 of the Code, states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

1 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
2 violation of, or conspiring to violate any provision of this chapter.

3 "(b) Gross negligence.

4 "(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
5 omissions. An initial negligent act or omission followed by a separate and distinct departure from
6 the applicable standard of care shall constitute repeated negligent acts.

7 "(1) An initial negligent diagnosis followed by an act or omission medically appropriate
8 for that negligent diagnosis of the patient shall constitute a single negligent act.

9 "(2) When the standard of care requires a change in the diagnosis, act, or omission that
10 constitutes the negligent act described in paragraph (1), including, but not limited to, a
11 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
12 applicable standard of care, each departure constitutes a separate and distinct breach of the
13 standard of care.

14 "(d) Incompetence.

15 "(e) The commission of any act involving dishonesty or corruption that is substantially
16 related to the qualifications, functions, or duties of a physician and surgeon.

17 "(f) Any action or conduct which would have warranted the denial of a certificate.

18 "(g) The practice of medicine from this state into another state or country without meeting
19 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
20 apply to this subdivision. This subdivision shall become operative upon the implementation of
21 the proposed registration program described in Section 2052.5.

22 "(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
23 participate in an interview by the board. This subdivision shall only apply to a certificate holder
24 who is the subject of an investigation by the board."

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26 ///

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28 ///

1 CAUSE FOR DISCIPLINE

2 (Repeated Negligent Acts- 2 Patients)

3 7. Respondent is subject to disciplinary action under section 2234, subdivision (c), of
4 the Code in that he committed repeated negligent acts in his care of Patient 1, and Patient 2.¹ The
5 circumstances are as follows:

6 Patient 1

7 8. Patient 1 is a 37-year-old female who first treated with Respondent in November
8 2013.² Patient 1 was diagnosed with major depressive affective disorder and anxiety. Records
9 indicate that initially, Respondent discussed with the patient about helping her wean off
10 Klonopin, but prescription records indicate that Respondent continued to prescribe Klonopin and
11 Lorazepam for several months after the first visit in November 2013.³

12 9. In February 2014, Patient 1 reported that she was in rehab, and Respondent officially
13 diagnosed the patient as suffering from benzodiazepine dependence on or about February 27,
14 2014.

15 10. On or about March 31, 2014, Respondent was also given notice that Patient 1 may
16 have been obtaining controlled substances (e.g. Lorazepam and Norco) fraudulently. And in a
17 progress note, dated April 29, 2014, Respondent documents a discussion with the patient in which
18 Patient 1 alleges that her sister may have been obtaining controlled substances fraudulently, using
19 Patient 1's name. Despite these warning signs, Respondent continued to prescribe Lorazepam to
20 Patient 1 and other controlled substances after these notices.

21 11. Respondent's treatment of Patient 1 represented simple departures from the standard
22 of care as follows:

23 ///

24 ¹ The patients are identified numerically to protect their privacy.

25 ² These are approximate dates, based on the records which were available for review.
26 Records also indicate that the patient was being treated for addiction beginning in 2012 by
another provider per CURES, and that the patient was prescribed Methadone and Suboxone for
her addiction problems.

27 ³ CURES also showed that Respondent prescribed Hydrocodone to Patient 1. Respondent
28 vehemently denies the prescriptions of Hydrocodone and claims that these prescriptions were
obtained fraudulently, and without his knowledge or authorization.

1 a. Respondent failed to accurately diagnose Patient 1's substance abuse disorder in a
2 timely fashion by not obtaining an accurate history before February 2014;

3 b. Respondent continued to treat Patient 1 with multiple benzodiazepine medications,
4 despite her having a dependence on same, and despite receiving notices that medications on
5 behalf of the patient may have been obtained fraudulently;

6 c. Even after diagnosing Patient 1 as having benzodiazepine dependence, Respondent
7 failed to obtain a CURES report, which would have also alerted Respondent regarding the
8 disputed prescriptions for Hydrocodone.

9 Patient 2

10 12. Patient 2 is a 51 -year-old female who first treated with Respondent in January 2014.⁴
11 In the initial intake Patient 2 reported that she had used methamphetamine (a controlled
12 substance) daily beginning at age 28, and last used it at age 30. The patient also noted that she
13 wanted to taper off Xanax. While it does appear that there was some initial attempt to reduce the
14 dosage and quantity of Xanax being used by Patient 2, by November 2014, she was being
15 prescribed doses of Xanax in excess of that which she initially started treatment.

16 13. Respondent failed to meet the standard of care by not adequately treating the patient
17 for her dependence on Xanax, and by his continued prescriptions of Xanax to this patient. This
18 represents a simple departure from the standard of care.

19 PRAYER

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
21 and that following the hearing, the Medical Board of California issue a decision:

22 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 94047,
23 issued to Oghenesume David Umugbe, M.D.;

24 2. Revoking, suspending or denying approval of Oghenesume David Umugbe, M.D.'s
25 authority to supervise physician assistants and advanced practice nurses;

26
27 ⁴ Again, these are approximate dates, based on the records which were available for
28 review.

1 3. Ordering Oghenesume David Umugbe, M.D., if placed on probation, to pay the
2 Board the costs of probation monitoring; and

3 4. Taking such other and further action as deemed necessary and proper.

4
5 DATED: July 5, 2019


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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